



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/684,387

10/15/2003

Henry J. Jarzmik

WH 12 149US

4457

24962 7590 10/15/2008
DENNISON ASSOCIATES
133 RICHMOND STREET WEST
SUITE 301
TORONTO, ON M5H 2L7
CANADA

EXAMINER

DASS, HARISH T

ART UNIT

PAPER NUMBER

3692

MAIL DATE

DELIVERY MODE

10/15/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/684,387	Applicant(s) JARZMIK, HENRY J.	
	Examiner HARISH T. DASS	Art Unit 3692	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2 and 5-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2 and 5-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This communication is in response to applicant's communication 06/26/2008.

2. Status of Claims:

Claims 2, 5-9 are pending.

Claims 1, 3-4 and 10-20 are withdrawn.

Claim 7 has been amended for proper dependency (claim objection is removed).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 5-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ryan et al. (hereinafter Ryan – US 6,684,189) in view of Chodes ("Life insurance as a hidden cash Source"; Gary Chodes, Tony Natale. The Secured Lender. New York: Jul/Aug 1999. Vol. 55, Iss. 5; pg. 16, 3 pgs).

Re. Claim 5 Ryan discloses a) key-man; obligating the borrower to periodically make a premium payment on a life insurance policy on the life of the borrower [see entire document particularly - Abstract; Figure 3s, 17-21, 27; col. 2 lines 10-42];

b) arranging for at least a portion of the premium payment to be invested, in at

Art Unit: 3692

least one investment vehicle, the investment vehicle having a preselected estimated rate of return [col. 2 lines 10-42; col. 31 lines 16-25; col. 46 lines 1-10];

c) calculating an estimated cash surrender value of the life insurance policy over time based on the portion of the premium payment to be invested in the at least one investment vehicle and the preselected estimated rate of return [Figures 28; col. 46 lines 20-28];

e) receiving the cash surrender value of the policy at a preselected time in full satisfaction of the loan, wherein the preselected time is based upon the estimated cash surrender value [Figure 30 and associated descriptions].

Ryan explicitly does not disclose the life insurance policy naming the lender as

beneficiary, the life insurance policy being cashable for a cash surrender value; and

d) periodically applying the proceeds of the investment vehicle to the insurance policy to increase the cash surrender value thereof. However, periodically applying the proceeds of the investment vehicle to the insurance policy to increase the cash surrender value thereof is well known to one practitioner in the art of investment. For example long term stock holders reinvest the dividend back to let their investment grow in case of retirement or tax free bonds, they do not pay tax either.

Chodes discloses the life insurance policy naming the lender as beneficiary, the life insurance policy being cashable for a cash surrender value [see the NPL document – 4 pages]. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to combine the disclosures of Ryan and Chodes to provide a life insurance for a key-man for a business who signs the loan/mortgage on

Art Unit: 3692

behalf of the company and in event of the death of the key-man, the lender should be able to recover his money.

Re. Claims 2 and 6, Ryan explicitly does not disclose wherein the investment vehicle produces returns which are permitted to build on a tax-free basis and periodically calculating an actual rate of return of the at least one investment vehicle, and obligating the borrower to make additional premium payments if the actual rate of return of the at least one investment vehicle is less than the estimated rate of return. However, these features are well known, For example long term stock holders reinvest the dividend back to let their investment grow in case of retirement or tax free bonds, they do not pay tax either [see above example] and in rebalancing/reallocating the investment investors periodically reallocates his/her investment to get better return.

Re. Claim 7, Ryan discloses creating a surplus [col. 46 lines 28-50]. Ryan explicitly does not disclose paying the borrower investment surplus amounts if the actual rate of return of the at least one investment vehicle exceeds the estimated rate of return.

However, this is business choice to keep the money are Ryan discloses in escrow of pay the fund back to the owner. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of Ryan and include these feature to stratify the accounting practice of the company.

Re. Claim 8 Ryan discloses periodically calculating an actual rate of return of the at

Art Unit: 3692

least one investment vehicle, and arranging to have the borrower make additional premium payments if the actual rate of return of the at least one investment vehicle is less than a preselected lower rate limit [col. 78 line 1 through col. 79 line 18].

Re. Claim 9 Ryan discloses receiving the cash surrender value and the death benefit of the life insurance policy in the event of the death of at least one individual, and discharging the loan in the event of the death of at least one individual [Figures 28, 34, 63].

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HARISH T. DASS whose telephone number is (571)272-6793. The examiner can normally be reached on 8:00 AM to 4:50 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Abdi Kambiz can be reached on 571-272-6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3692

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Harish T Dass/
Primary Examiner, Art Unit 3692

10/14/2008